

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 25, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 24, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Vice-Chair; Bud Hentzen; John W. McKay Jr.; Bill Johnson; Elizabeth Bishop; M.S. Mitchell; Frank Garofalo; Bob Hernandez and Darrell Downing. Ronald Marnell, Chair; James Barfield; David Wells and Ed Sunquist were not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

1. **Presentation of Address Guidelines for Wichita-Sedgwick County by Kathy Sexton, Assistant County Manager and Chief Information Officer.**

KATHY SEXTON, Assistant County Manager, reviewed the purpose of the proposed Address Guidelines. She asked all the members of the Address Committee in the audience to stand and be recognized, and presented the following comments:

The purpose of the presentation is to discuss the importance of accurate addresses to public safety and to the efficient delivery of essential services. In addition, I will inform you of recent efforts on a regional address project to provide a central address database for use by county and city governments throughout the Sedgwick County region and how that project affects the work of the MAPC and needs your support.

Effective use of the address system relies on assignment of addresses in a logical, consistent manner and their subsequent storage in an address database. In turn, programs that use the database may operate more efficiently and will render more accurate results. This equates to faster arrival of ambulances, accurate collection of taxes when renewing auto tags, correct assignment of voting precincts, more reliable mapping analysis, and clearer property records. The benefits are numerous.

As a key part of this initiative, the Wichita/Sedgwick County Address Committee developed addressing standards that ensure logical and consistent assignment of addresses. Standards were compiled into the guidebook, *Addressing in a Regional Context*, for use by anyone involved in local addressing (available at www.sedgwickcounty.org/gis). Your copy is included in this meeting packet.

Addressing in a Regional Context took two years of research to compile. Best addressing practices from around the country were used and modified to fit local needs. The manual is intended to be a resource for those involved in naming streets and assigning address numbers. Adherence to the manual in development proposals will facilitate the development application review process saving time and money for applicants and for city and County staff. The manual is especially applicable to new plat proposals that include new street Right-of-Way dedications.

The manual presents instructions for assigning street names and addresses, including how to deal with naming curved streets, how to assign house numbers in cul-de-sacs, the standard street types used in Sedgwick County, and the proper use of directional prefixes. Also included is a short history of the Address Committee, a list of the various city grids used in the County, and sample documents for correcting addresses. *Addressing in a Regional Context* lays the foundation for uniform addressing in Sedgwick County and is used extensively by County and city offices.

BISHOP Sitting on the Subdivision Committee, addressing related problems come up often, and I am not sure there is a good solution. For example, there is a street named Herman that connects to an arterial street, and right across the street a developer wants to develop Happy Acres. The developer wants the collector street in his subdivision to be Happy Acres Parkway because that is the name of his development. He does not want it to be Herman or any other name. We have encountered this problem at least a couple of times.

JOHNSON There seems to be too much discussion of these address problems at a few of our meetings. I feel that most of those address issues are starting to be worked out before they come to Subdivision or MAPC. I am glad to see that the developers and GIS are starting to work more closely together.

SEXTON Lots of the issues are being worked out prior to your meetings. The developers will have an opportunity to review the guidelines. They will understand the rules, what the issues are prior to the developments going in, and how important it is to public safety personnel to be able to find a street in an emergency.

DUNLAP At what point is GIS involved, before it goes to Subdivision?

JENNIFER CHAMBERS, GIS, I receive a packet for the Subdivision Committee meeting, and I review the street names and make sure that they are not duplicate names. We make recommendations to city and county staff, and present our concerns to the Subdivision Committee. Usually, the developer will call if there is a problem.

DUNLAP Concerning some of the streets that are offset, what is the opinion of the people who have to go find those addresses? How far should the offset be before the streets should be named the same?

CHAMBERS About 200 feet, it is in the proposed guidelines.

DUNLAP I assume these dots on this map are not the only problems, but these are just representative of the ones that have come up.

SEXTON These are the ones we know of right now. Some of that is because people have been calling our offices and letting us know their address problems.

MOTION: To receive and file report.

HENTZEN moved, BISHOP seconded the motion, and it carried (9-0).

2. **Approval of December 19, 2003 MAPC workshop minutes.**

MOTION: To approve MAPC December 19, 2003 workshop minutes.

HERNANDEZ moved, JOHNSON seconded the motion, and it carried (7-0-2) GAROFALO and MCKAY abstain.

❖ **SUBDIVISION ITEMS**

3. **Consideration of Subdivision Committee Recommendations**

3-1. **SUB2004-19 - One-Step Final Plat – BUFF CAR WASH ADDITION, located on the south side of 21st Street North and west of Broadway**

NOTE: This is a replat of a portion of the Brooks and Oldham Addition. The south portion of the site has been approved for a zone change (ZON 2003-47) from TF-3, Two-Family Residential to LC, Limited Commercial. The site has also been approved for a Conditional Use (CON 2003-37) for a car wash.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. In conformance with the site plan approved with the Conditional Use, the plat proposes complete access control along 21st St. North, and two openings along Arkansas. **The access controls are approved.**
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. The Conditional Use was approved subject to a 10-ft dedication of street right-of-way and 10-ft sidewalk and utility easement along 21st St. North. **Traffic Engineering has required a 5-ft contingent dedication of right-of-way along Arkansas. A 25-ft x 25-ft corner clip at the intersection is also needed.**
- G. In accordance with the Conditional Use approval, the segment of the alley adjoining the plat shall be paved.
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the

protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-2. SUB2004-12 - Final Plat –WEST HIGH SCHOOL ADDITION, located on the north side of Lincoln and east of Seneca.

NOTE: This is a replat of portions of the Elmdale Addition, Glendale Addition and the Stratton Addition.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **An additional utility easement is needed to cover the water line.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The plat proposes access control except one opening along Lincoln. **The access controls are approved.**
- E. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban arterials. **A 10-ft contingent street dedication and a 10-ft sidewalk and utility easement have been required by the Subdivision Committee.**
The dedications have been platted as requested.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The Applicant has platted a 20-ft building setback along Dayton, Osage and Lincoln which represents an adjustment of the Zoning Code standard of a 25-ft setback for the MF-29 District. The Subdivision regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the

protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff. Most of the discussion at Subdivision Committee dealt with the 10-foot contingent street dedication and a 10-foot sidewalk and utility easement. The applicant agreed with that and it was platted as requested.

MITCHELL I have an issue with Item E, Lincoln connects to McCormick on the west and Lincoln on the east, and for both of those streets nowhere is there more than two lanes available. This pavement is 44 feet wide back to back on a 70 foot right-of-way, and there is a sidewalk existing all along West High School property at 17 1/2 feet back from the curb. I don't see any reason to require any additional right-of-way from this parcel of land. Everything in either direction to those two ends of the street is already platted and developed. The action that triggered the re-platting is the replacement of the West High portable classroom units. There will be no change in traffic in and out of the project.

RUSS EWY, Baughman Company, I will try to answer any questions that you may have.

BISHOP The Access Management Regulations is what is requiring the street right-of-way?

STRAHL The Access Management Regulations require 60-feet of half-street right-of-way width along urban arterials. At the preliminary plat review, I recall, there was some reluctance by the applicant to dedicate the entire 60-feet, and therefore, the compromise was worked out where the additional 20-feet would be a combination of the 10-foot sidewalk utility easement and the 10-foot contingent street dedication.

DUNLAP If we were in a brand new area this might be a different situation.

MITCHELL I don't agree the Access Management Policy is a regulation.

MOTION: To approve and remove Item E.

MITCHELL moved, MCKAY seconded the motion.

MILLER The Access Management Policy has been adopted by the BOCC and WCC, and is something staff is supposed to use as a regulation, and we are just trying to be consistent so that we don't get accused of doing it one time and not another time.

BISHOP I remember when this was discussed at the preliminary plat, and it seems like the contingent street dedications are consistently objected to, and in this instance it looks like a compromise was worked out, and I would hope we can leave it that way.

JOHNSON The first time we heard this, there was a lot of discussion at Subdivision, and I thought there was an agreement made.

MOTION CARRIED: 6-3 GAROFALO, BISHOP and JOHNSON Opposed.

3-3. SUB2003-111 - Final Plat – MY HOUSE ADDITION, located south of 55th Street South and west of Broadway.

NOTE: This is a replat of Lots 21 and 28, Vandale Addition.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the drainage plan. The drainage plan is approved.

- D. The Applicant shall guarantee the paving of the proposed streets.
- E. MAPD and Traffic Engineering recommend the Applicant provide a 40-ft dedication of street right-of-way along the west property line in order to provide potential street connection to adjoining properties. The cul-de-sacs should be extended to this 40-ft street dedication.
- The street dedication has been platted as requested.
- F. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- G. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- I. GIS needs to comment on the plat's street names. **W 56th S needs to be revised to "W 56th Cir S"**.
- J. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- K. On the final plat, reference to the "45-ft building setback" shall further note that the setback line is a Building Setback Line for the STG, Inc. Pipeline.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-4. SUB2004-25 – One-Step Final Plat – AARON GOODWIN ADDITION, located on the north side of 25th Street North, east of Broadway.

NOTE: This is an unplatted site located within the City. A conditional use case (CON 2003-47) has been approved for a wrecking/salvage yard.

STAFF COMMENTS:

- A. Municipal services will not be needed to service this site. City Engineering needs to comment on the need for other guarantees or easements.
- B. City Water and Sewer Department has requested a petition for future extension of sanitary sewer services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. *If any drainage will be directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their agreement to accept such drainage.*
- E. The plat proposes one access opening along 25th St. North; however the site plan indicates two access openings. *Traffic Engineering has not required dedication of access controls since 25th St is not an arterial.*
- F. The Applicant is advised that if platted, the building setback may be reduced to 20 feet.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. *SBC has requested additional utility easements.*
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-5. DED2004-03 – Dedication of Street Right-of-Way, for property located on the south side of Central, east of Hoover Road.

OWNER/APPLICANT: Bruce and Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

AGENT/SURVEYOR: AM Consulting, Inc., 142 N. Emporia, Wichita, KS 67202

LEGAL DESCRIPTION: The north 10 feet of Lot 1, except the west 65 feet, and Lot 2, except the east 60-feet, Block 2, Kell Hawkins Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-144) for dedication of additional street right-of-way along Central Avenue.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-6. **DED2004-04 – Dedication of a Sidewalk and Utility Easement, for property located on the south side of Central, east of Hoover Road.**

OWNER/APPLICANT: Bruce and Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

AGENT/SURVEYOR: AM Consulting, Inc., 142 N. Emporia, Wichita, KS 67202

LEGAL DESCRIPTION: A 10-foot sidewalk and utility easement located in Lot 1, except the west 65 feet, and Lot 2, except the east 60 feet and except the north 10 feet being dedicated to the City of Wichita for street-right-of-way, Block 2, Kell Hawkins Addition, Wichita, Sedgwick County, Kansas, being more particularly described as the north 10 feet of said lot.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-144) for an additional sidewalk and utility easement along Central Avenue.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-7. **DED2004-05 – Dedication of Access Control, for property located on the south side of Central, east of Hoover Road.**

OWNER/APPLICANT: Bruce and Esther L. Pearson, 2626 N. Maize Road, Wichita, KS 67205

AGENT/SURVEYOR: AM Consulting, Inc., 142 N. Emporia, Wichita, KS 67202

LEGAL DESCRIPTION: Lot 1, except the west 65 feet, and Lot 2, except the east 60 feet, Block 2, Kell Hawkins Addition, Wichita, Sedgwick County.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-144) and is being dedicated for access control, except for one opening, along Central Avenue.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-8. **DED2004-06 – Dedication of a Utility Easement, for property located on the north side of 13th Street and on the west side of High Street.**

OWNER/APPLICANT: Scott McColm, 1536 Pleasant View, Wichita, KS 67203

AGENT/SURVEYOR: Benchmark Land Survey, 617 E. William, Wichita, KS 67202

LEGAL DESCRIPTION: A four-foot utility easement at the center line described as follows:

Beginning at a point on the south line and 144.00 feet west of the southeast corner of Lot 11, Nice's Addition, Wichita, Sedgwick County, Kansas; thence north parallel to the east line of said Lot 11, for a distance of 67.0 (+/-) feet to the north line of said Lot 11.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2004-06) for an additional utility easement.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-9. DED2004-07 – Dedication of Street Right-of-Way, for property located on the north side of 13th Street and on the west side of High Street.

OWNER/APPLICANT: Scott McColm, 1536 Pleasant View Dr., Wichita, KS 67203

AGENT/SURVEYOR: Benchmark Land Survey, 617 E. William, Wichita, KS 67202

LEGAL DESCRIPTION: The East 30 feet of Lot 11, Nice's Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2004-06) for additional street right-of-way along Joann Street.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-10. DED2004-08 – Dedication of a Utility Easement, for property located on the south side of Pawnee and west of West Street.

OWNER/APPLICANT: Earl V. Long, III, Long Brothers of Wichita, LLC, 2558 S. Kessler, Wichita, KS 67219

AGENT/SURVEYOR: N/A

LEGAL DESCRIPTION: The east 20 feet of Lot 3, Block 1, Westport Industrial Park Fifth Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-130) for an off-site utility easement.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **DOWNING** seconded the motion, and it carried (9-0).

3-11. DED2004-09 – Dedication of a Sidewalk and Utility Easement, for property located on the south side of Pawnee and west of West Street.

OWNER/APPLICANT: Russell A. Gipson, 112 Springwood Lane, Derby, KS 67037

AGENT/SURVEYOR: N/A

LEGAL DESCRIPTION: The north 10 feet of Lot 1, Dewitt Fourth Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2003-130) for an additional sidewalk and utility easement along Pawnee Avenue.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, DOWNING seconded the motion, and it carried (9-0).

❖ **PUBLIC HEARING — ZONING ITEMS**

4-1. VAC2004-04 – Request to Vacate 5-Foot of the Platted 25-Foot Setback.

OWNER/APPLICANT: Josefina & Joselito Magno

LEGAL DESCRIPTION: Vacate a portion of the platted 25-foot front yard setback as recorded on Lots 5 & 12, Block 3, The Moorings Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 53rd Street North and the K-96 – IH 235, west of Meridian Avenue, more specifically southwest of the Keywest Street – Meridian Avenue intersection, the corner lot on Bentbay Street and Baja Street and the corner lot on Timbercreek Street and Baja Street.

REASON FOR REQUEST: Allow additional space to build houses.

CURRENT ZONING: Subject property and all adjacent properties are zoned “SF-5” Single-Family Residential.

The applicant is requesting vacation of 5-feet of the platted 25-foot front yard setbacks on Lots 5 & 12, Block 3, The Moorings Addition. Both sites are corner lots, with the front yard following the radius of the street. The applicant proposes to build a house on each lot. The UZC’s standard for a front yard setback for the “SF-5” zoning district is 25-feet. If the front setbacks were not platted, the applicant could have applied for an administrative adjustment to reduce the 25-foot setback by 20 percent; a 5-foot reduction, which is what the applicant’s are requesting. The Moorings Addition was recorded November 2, 1977.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties Planning Staff recommends approval to vacate 5-feet of the platted 25-foot setbacks as described in a legal description.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time March 4, 2004 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setbacks and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted setbacks described in the petition should be approved with conditions:

- (1) Vacate 5-feet of the platted 25-foot front yard setback on Lots 5 & 12, Block 3, The Moorings Addition, stopping at their point of intersection with the platted easements on the sites.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate 5-feet of the platted 25-foot front yard setback on Lots 5 & 12, Block 3, The Moorings Addition, stopping at their point of intersection with the platted easements on the sites.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

4-2. VAC2004-06 – Request to Vacate Platted Street Right-of-Way.

APPLICANT/OWNER: Cedar Lane Farms, LLP c/o Jim Reilly

AGENT: Baughman Company, PA c/o Russ Ewy

LEGAL DESCRIPTION: That portion of the 9th Street North ROW abutting Lots 1, 2 & 3, Block 3, Crestview Country Club Estates Overbrook Second Addition, as dedicated, in the Crestview Country Club Estates Overbrook Second Addition Wichita, Sedgwick County, Kansas,

LOCATION: Generally northeast of the 9th Street North – 143rd Street East intersection, more specifically northeast of the 9th Street North – Sagebrush Street intersection.

REASON FOR REQUEST: Reversion rights

CURRENT ZONING: Site and properties east, west and south of the site are zoned “SF-5 Single-Family Residential. Property north of the site is zoned “SF-20” Single-Family Residential.

The applicant is requesting consideration to vacate that portion of 9th Street North that abuts Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition. The applicant has referred to this portion of the ROW as an “eyebrow”. It resembles the radius end of a cul-de-sac and probably functions much the same way. The front yard setbacks for the three lots have platted 25-foot setbacks. Depending on the intent of the applicant in regards to these three lots, for these setbacks to move with the adjusted property lines, they would have to be vacated. Reversion rights for the proposed vacated ROW are with the abutting property owner(s) of Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition; the applicant. This “eyebrow” is the only public access for Lot 2, the middle lot of the three lots abutting the “eyebrow”. There is no sewer or water in the ROW, nor is there water and sewer service to the site at this time. The Crestview Country Club Estates Overbrook Second Addition was recorded May 29, 1981.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted 9th Street North ROW as described with conditions.

- A. That after being duly and fully informed as to fully understands the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time March 4, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted street ROW described in the petition should be approved with conditions;
- (1) A covenant shall be submitted establishing a Reserve (private drive) for the vacated ROW, which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.
 - (2) Provide water and sewer petition to City Public Works for water and sewer service for Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition. Provide easements for water and sewer as necessary.
 - (3) Provide paving petition to County Public Works for paving of 9th Street where it abuts Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant, including providing any necessary easements.
 - (5) All improvements shall be according to City Standards, including standards for a private drive or a parking lot.
 - (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) A covenant shall be submitted establishing a Reserve (private drive) for the vacated ROW, which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.

(2) Provide water and sewer petition to City Public Works for water and sewer service for Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition. Provide easements for water and sewer as necessary.

(3) Provide paving petition to County Public Works for paving of 9th Street where it abuts Lots 1, 2 and 3, Block 3, Crestview Country Club Estates Overbrook Second Addition.

(4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant, including providing any necessary easements.

(5) All improvements shall be according to City Standards, including standards for a private drive or a parking lot.

(6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

RUSS EWY, Baughman Company We are in opposition of Condition #3 which is a Subdivision Committee recommendation to provide paving petition to County Public Works for paving of 9th Street where it abuts Lots 1, 2, and 3, Block 3, Crestview Country Club Estates Overbrook Section Addition. We would ask that Condition #3 be waived. We call into question the need to pave 9th Street under a new petition, when there exists a petition to date to help pave 9th Street from roughly this area to Sagebrush. The County has now asked us to basically redefine a benefit district that would lay the sole responsibility of paving 9th Street to this point on these lots, and I think that is the center issue of our problem.

MCKAY You're saying 9th Street is not paved currently?

EWY 9th Street is paved to this area, to the Sagebrush intersection. I believe that there is a project underway to connect the two streets.

MCKAY Why don't you want a petition drawn up?

EWY Because there is going to be no more than two home sites for the balance of that property that can easily be accommodated by a driveway.

MCKAY Is that a platted street?

EWY Yes, that is platted street.

MCKAY Why don't you vacate the whole street instead of a little notch?

EWY We may have to do so. Why keep the street right-of-way there when there is a larger benefit district created? Our problem is having to pay for the entire street up to that point based on one single-family home. I think the petition is our issue, but not necessarily the right-of-way. The requirement is that we pave it for one home.

MCKAY The platted property and this section of 9th Street were platted together, correct?

EWY That is correct.

MCKAY You are just going to vacate the semi-cul-de-sac?

EWY That is correct.

MCKAY Yet, you are saying there will only be one or two houses in there, and you want to leave the street in there.

EWY We will need at least a drive-way. Our issue is the re-petitioning of that benefit district. They are taking what would normally be 6-7 additional lots, and instead of spreading the cost of that petitions on those lots they are spreading the cost onto these three lots.

MCKAY In my opinion it shows three to four lots on the south side, three to four lots on the north of 9th street, you want to leave that street platted the way it is, but you are only going to put two houses on it?

EWY That is correct.

MCKAY Why don't you vacate the street, if you own both sides of it, and pick-up the land.

EWY We are going to see what happens today before we file that application.

MITCHELL How did we get a platted subdivision without a petition for paving?

EWY I don't know.

MCKAY Why is staff recommending the petitions?

JIM REILLY, 800 N. Stagecoach, applicant The preference would be to vacate the whole street, but it had been our impression that since it was a platted street that goes nowhere, that would be next to an impossible.

MILLER We can't explain why County Public Works is re-spreading it the way it is, and I don't know what Jim Weber's thinking was on that. But, with respect to vacating 9th Street completely, from a design standpoint and Subdivision Regulations, we would want to retain 9th Street because there is no other connection to the east.

SCHLEGEL Do you know if the request for the petitions came from County Public Works?

LONGNECKER Yes, it was made at the Subdivision meeting last week.

MCKAY I want to see the aerial photo again.

BISHOP Is there a dirt road that goes from that yellow line that is just below the area in red that goes over to the hedgerow?

DUNLAP That goes east of the requested vacation area?

LONGNECKER (Showing aerial) We have platted right-of-way right in here, and this is the lot, and this is the road right here that is platted.

BISHOP There seems to be a feature that went to the east, there; maybe that is just drainage way.

LONGNECKER I believe it is.

MCKAY Russ, to the west, to the left, on 9th Street, there is access over to what street?

EWY That would be 143rd Street East.

MCKAY You made a comment earlier that Lot 32, and 33 got their access from the south

EWY Lot 33, right there is the driveway .

MCKAY Does that street go all the way down and through someplace? Are there two points of access to this piece of ground?

DUNLAP That street runs down to Sharon Lane which goes back down to 143rd Street?

EWY That is correct. Nothing connects with Central to the south, KTA crosses and comes here so Sagebrush would come straight and come back and connect to 143rd Street.

DUNLAP So we do have two points of access?

EWY At a minimum there may even be a third in the middle.

MCKAY I don't think so.

KNEBEL Sagebrush loops down, comes back, and comes up to Stagecoach.

MCKAY It all has one point of entrance?

KNEBEL Correct.

MITCHELL Russ, have you met with County Public Works this week?

EWY I spoke with Jim Weber, and they will not compromise.

GAROFALO An extension of 9th Street would run up by the property?

EWY That is correct. You have got the majority of the northwest quarter section held in with maybe two or three ownerships; there are large horse stable farms, and one owner owns a substantial amount of property in which 9th Street dead ends limiting the necessity for the 9th Street stub.

JOHNSON They were asking to vacate part of their setback, and now they are talking about vacating a right-of-way.

LONGNECKER Per the staff report, they are asking to vacate 9th Street right-of-way, but only that "eyebrow" section, not the 9th Street right-of-way from Sagebrush to where it currently dead ends to the east.

MILLER That part of 9th Street they are now talking about, beyond the 'eyebrow' section, has not been advertised so they can't do that.

SCHLEGEL You would have to re-advertise.

BISHOP If the petition for paving would be accepted as part of this vacation request, would that prohibit the applicant from coming back at some point in time and asking for a vacation of 9th Street?

LONGNECKER No.

DUNLAP The question in front of us today is that we are voting on the vacation of only this "eyebrow" section of right-of-way.

MCKAY With Condition #3, the requirement for petition for paving remaining.

LONGNECKER We are vacating a portion of right-of-way, but it is only that "eyebrow" section. It is not for that section from 9th Street from Sagebrush back over to the end of the subdivision. We would have to re-advertise for that type of vacation.

MOTION: To approve subject to staff recommendation and conditions.

MITCHELL moved, **BISHOP** seconded the motion, and it carried (9-0).

4-3. VAC2004-07 – Request to Vacate Platted Street Right-of-Way.

APPLICANT/AGENT: Wildcat Construction c/o Howard K Sherwood (applicant)
Baughman Company, P.A. c/o Russ Ewy (agent)

LEGAL DESCRIPTION: The west 145-feet of Bounous Street, abutting Lot 4, Block 1, Burnham Industrial Addition on its north side, abutting Lot 1, Block 3, Burnham Industrial Addition on its south side and abutting Lot 1, Sherwood Industrial Park III Addition on its east side. This portion of Bounous Street as dedicated in the Burnham Industrial Addition, Wichita, Sedgwick County, Kansas,

LOCATION: Generally southwest of the Harry Street – West Street intersection, more specifically a portion of Bounous Street, west of the Nevada Street – Bounous Street intersection.

REASON FOR REQUEST: Private use

CURRENT ZONING: Site and surrounding properties are zoned "LI" Limited Industrial

The applicant is requesting consideration to vacate the west 145-feet (x) 80-feet of the Bounous Street ROW as dedicated in the Burnham Industrial Addition, located west of the Bounous Street – Nevada Street intersection. Bounous Street currently dead-ends into Lot 1, Sherwood Industrial Park III Addition; the applicant's property. There is no sewer in that portion of the Bounous Street ROW, but there is water. Westar has utilities in this portion of the ROW. The applicant owns the 3 abutting properties and has reversion rights. The Burnham Industrial Addition was recorded February 1, 1960. The Sherwood Industrial Park III addition was recorded September 15, 1987.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted Burnham Street ROW as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time March 4, 2004 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted street ROW and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted street ROW described in the petition should be approved with conditions;

(1) Provide 20-foot of easement for the water line in the ROW. Provide access to the water line in easement.

(2) Provide an easement for the Westar equipment. Provide access to the Westar equipment in easement.

(3) Setbacks are current and would remain in effect and move with the adjusted property lines.

(4) Provide restrictive covenant(s) that would retain, hold and bind together the vacated Burnham Street ROW to the owner of the properties that have the reversion rights of vacated ROW.

(5) Provide access for Fire Department.

(6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

(7) All improvements shall be according to City Standards, including standards for a private drive or a parking lot as needed.

(8) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide 20-foot of easement for the water line in the ROW. Provide access to the water line in easement.
- (2) Provide an easement for the Westar equipment. Provide access to the Westar equipment in easement.
- (3) Setbacks are current and would remain in effect and move with the adjusted property lines.
- (4) Provide restrictive covenant(s) that would retain, hold and bind together the vacated Burnham Street ROW to the owner of the properties that have the reversion rights of vacated ROW.
- (5) Provide access for Fire Department.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (7) All improvements shall be according to City Standards, including standards for a private drive or a parking lot as needed.
- (8) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

4-4. VAC2004-08 – Request to Vacate a Portion of a Drainage Easement.

OWNER/APPLICANT: Maize Road LLC, c/o Jay W Russell

AGENT: Baughman Company PA c/o Phil Meyer

LEGAL DESCRIPTION: The north 25-feet of the east 142-feet of the platted 40-foot drainage easement lying in and running parallel to the south property line of Lot 9, Block C, as dedicated in Southern Ridge Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southwest of the Maize Road – Pawnee Avenue intersection, more specifically the southwest corner of Maize Court

REASON FOR REQUEST: Development of the site

CURRENT ZONING: Subject property and all adjoining properties are zoned “SF-5” Single-Family Residential

The applicant is requesting consideration for the vacation of the north 25-feet of the east 142-feet of the platted 40-foot drainage easement that lies entirely in the south side of Lot 9, Block C, Southern Ridge Addition. The applicant proposes the vacation of the easement to allow more room for development on Lot 9. There are no sewer or water lines in the platted easement. The Southern Ridge Addition was recorded with the Register of Deeds January 15, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted drainage easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time March 4, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted drainage easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved with conditions;
 - (1) The applicant shall submit plans, as needed, for review and approval by City Public Works/Strom Water. These plans must be approved prior to the Vacation Case proceeding to the WCC

- (2) If required by City Public Works/Storm Water, provide Planning Staff with a dedication of a drainage easement by separate instrument, which has been approved by City Public Works/Storm Water to be recorded with the Register of Deeds. This dedication(s) must be provided prior to the vacation case proceeding to the WCC.
- (3) Provide franchised utilities with any required easements made necessary by the proposed vacation.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (5) All improvements shall be according to City Standards.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The applicant shall submit plans for review and approval by City Public Works/Storm Water. These plans must be approved prior to the vacation case proceeding to the WCC.
- (2) If required by City Public Works/Storm Water, provide Planning Staff with a dedication of a drainage easement by separate instrument, which has been approved by City Public Works/Storm Water, to be recorded with the Register of Deeds. This dedication(s) must be provided prior to the vacation case proceeding to the WCC.
- (3) Provide franchised utilities with any required easements made necessary by the proposed vacation.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (5) All improvements shall be according to City Standards.
- (6) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

5. **Case No.: ZON2004-06** – Wichita Concrete Pipe, Inc. c/o Brad Werth (owner/applicant); Baughman Company c/o Russ Ewy (agent) Request Zone change from "SF-5" Single-family Residential to "LI" Limited Industrial on property described as;

A tract of land lying in the Northeast Quarter of Section 32, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Northeast corner of the Northwest Quarter of said Northeast Quarter; thence South to the Southeast corner of the Northwest Quarter of said Northeast Quarter; thence West along said South line to center of Old Chisholm Creek (now improved drainage channel); thence Northerly along the center of Old Chisholm Creek (now improved drainage channel) to a point on the North line of said Northeast Quarter; thence East to beginning, except 0.31 acres taken through Floodway Condemnation Case No. 41035 and except for road right-of-way. Generally located West of Broadway and south of 37th Street North

BACKGROUND: The applicant requests a zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial with a Protective Overlay District to limit permitted uses and provide screening/buffering on a 10.1 acre unplatted tract located south of 37th Street North and west of Broadway. As stated in the attached letter, the applicant proposes that the subject property be limited to the following uses: outdoor storage of concrete products and materials related to the manufacturing of concrete products, and accessory structures and uses related to the storage and/or maintenance of stored materials and products. The applicant also proposes that a 6 to 8-foot high concrete/masonry wall be provided along the south and west property lines and that a 50-foot deep landscape buffer with trees planted every twenty feet (including existing trees) be provided along the south and west property lines. At the District Advisory Board hearing on March 17, 2004, the applicant agreed to modifications to the Protective Overlay that are reflected in the "Recommendation" section of this report.

The surrounding area is characterized by a mixture of industrial and residential uses, with the industrial uses primarily located to the east. Most of the properties to the north, south, and west are zoned "SF-5" Single-Family Residential and are developed with single family residences, but are separated from the subject property by drainage ditches on the north and west. Most of the properties to the east are zoned "LI" Limited Industrial and are developed with various industrial uses.

Since adjacent properties have residential zoning, the Unified Zoning Code (UZC) requires screening along the south and west property lines. The proposed 6 to 8-foot high concrete/masonry wall meets the UZC screening requirement. The Landscape Ordinance requires landscape buffering along the south and west property lines and a landscaped street yard along the north

property line. The proposed 50-foot deep landscape buffer with trees every 20 feet far exceeds the buffering requirements of the Landscape Ordinance.

CASE HISTORY: According to aerial photographs, the applicant began using the southern half of the subject property for storage of concrete products and materials in violation of the Unified Zoning Code sometime between 1997 and 2000. Illegal use of the subject property for storage of concrete products and materials continued through 2002, at which time the applicant submitted, but subsequently withdrew, a zone change request (ZON2002-00072) for "LI" Limited Industrial. Illegal use of the subject property for storage of concrete products and materials ceased in 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Big Ditch, single-family residences
SOUTH: "SF-5" Single-family residences
EAST: "LI" Various industrial uses
WEST: "SF-5" Single-family residences

PUBLIC SERVICES: The subject property has frontage along 37th Street North, a two-lane arterial street with current traffic volumes of approximately 3,900 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on 37th Street North will increase to approximately 11,000 vehicles per day and recommends that 37th Street North remain a two-lane arterial street. The Institute of Transportation Engineers manual does not include the applicant's outdoor storage use in order to determine the number of trips generated by the use in the peak hour; therefore, the applicant will need to work with the Traffic Engineer prior to platting to determine if a traffic impact study needs to be completed for the subject property. Public water and sewer service are available to be extended to the subject property but likely will not be needed for the proposed use.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development; however, the Planning Commission has an informal policy of supporting business expansions onto abutting property rather than requiring relocation. One of the Industrial Locational Guidelines of the Comprehensive Plan recommends that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utility trunk lines, rail spurs, and airports, and the subject property meets this Locational Guideline.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay District:

1. The subject property shall be platted within one year but prior to use of the subject property for storage of concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.
2. Use of the subject property shall be limited to the outdoor storage of finished concrete products, and the height of stored concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.
3. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property and shall be set back at least 50 feet from the property line so that the required landscape buffer can be planted between the wall and the property line.
4. There shall be a 50-foot landscape buffer maintained along the south and west property lines of the subject property in conjunction with the solid screening wall. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance.
5. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.
6. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.
7. Blowing dust from the site shall be minimized by routinely spraying water on unpaved surfaces.
8. Within 60 days of approval of the zone change request, a voluntarily-offered restrictive covenant shall be submitted that places the requirements of provisions 2-7 of the Protective Overlay on the applicant's existing property to the east. The restrictive covenant shall require completion of improvements to the existing property to the east prior to the storage of concrete products on the property subject to rezoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of industrial and residential uses with the industrial uses primarily located to the east. Most of the properties to the east are zoned "LI" Limited Industrial. Given the separation from residential properties to the north and west by drainage ditches and the proposed screening and buffering, the proposed "LI" Limited Industrial zoning is compatible with the zoning, uses, and character of the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-Family Residential, and could be developed with residential uses; however, the subject property is a logical location for the expansion of the existing industrial business on the abutting property to the east.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the proposed screening and buffering, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development; however, the Planning Commission has an informal policy of supporting business expansions onto abutting property rather than requiring relocation. One of the Industrial Locational Guidelines of the Comprehensive Plan recommends that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utility trunk lines, rail spurs, and airports, and the subject property meets this Locational Guideline.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

BISHOP I have spoken to some members of the District Advisory Board VI about this item, and I have also visited the property, and I did not learn anything that I think would have a material impact on my vote.

DUNLAP I own property in this area, but not in the notification area. Do I need to abstain?

SCHLEGEL No, only if you are in the notification area and adjoining the property in question.

MCKAY Scott, is 35th Street paved?

KNEBEL 35th Street is not paved.

MCKAY Is 36th Street used by the neighborhood for access? It looks like 36th Street is a half street.

KNEBEL Yes, on 36th Street the properties that adjoin it immediately west of the subject property are not platted, and I think you are correct, it is a half street.

MITCHELL The applicant requested the overlay as a method of outlining the things that should be controlled?

KNEBEL The way that the process worked was that the applicant requested the overlay, and as stated in the letter dated March 2, 2004. At the District Advisory Board (DAB) they raised a number of questions regarding primarily how the existing property was to be addressed, and whether or not there was going to be screening and buffering provided for it, as well as the property that is subject to the rezoning. Citizens also expressed concerns regarding the existing fencing, trash, and the blowing dirt, so at the meeting the DAB made a motion to address those concerns, as outlined in their memo. The recommendation of staff is intended to address both the applicant's proposed Protective Overlay and the concerns of the DAB.

MITCHELL I am not sure of the eight conditions in the original staff report. How many of them are zoning regulations and how many are items that are required to cover situations that aren't in the zoning regulations.

KNEBEL I think they are all addressed in the zoning regulations with the exception of Conditions 6 & 7. As far as screening and landscaping, we do have specific standards for those, and these recommendations are in excess of the minimum requirements of the zoning and landscape codes. Were the minimums to be applied, they would be required to do a 20 foot deep landscape yard along 35th Street and along 37th Street, and a solid screening of some fashion whether it be landscape berm, a wooden fence or evergreen vegetation; and then along the west property line they would be required to do a landscape buffer which there is no minimum depth, but there is a requirement that a tree be planted every 40 feet, and of course the screening requirement as well.

MITCHELL The distance that the wall is being recommended from the property line is in excess of zoning regulations?

KNEBEL Right, the landscape street yard on 35th Street would need to be 20 feet in depth, and then the fence along the west property line actually could be on the property line and the buffer could be on the inside of the fence.

GAROFALO At the present time, there is no wall or anything on the existing?

KNEBEL That is correct, just chain link fencing on the existing plant site.

GAROFALO Is the applicant the one who is proposing the wall on the existing property?

KNEBEL I think the proposal for the wall actually came from the DAB, and the applicant indicated that they were somewhat in agreement to that.

RUSS EWY, Baughman Company Last year, about January, I stood here at the podium with a similar request to zone this for the storage of concrete product in conjunction with Wichita Concrete Pipe, and had received a clear indication from the Planning Commission about what needed to happen before we re-filed the case. As Scott mentioned, there is a history as to what happened on the site. Some activities that were illegal, an illegal rock crusher was brought to the site some years ago and created a series of dust storms and pile of rumble, etc., etc. The Planning Commission last year recommended to deny, 10-0, and instructed us to bring the site into conformance with existing zoning standards. That has been accomplished, and we have re-filed the case, and have worked with the Planning staff, DAB, etc., to try to come up with an agreeable set of conditions under which this property

would develop. We took those to the DAB last Wednesday night, and came to a tentative agreement on these revised conditions presented to you today. We are in agreement with the majority of these. There are several we want to talk about today. We agreed to treat the existing concrete plant, with some 600 feet of frontage onto 35th Street; it was their recommendation to provide a wall to continue this 8-foot masonry wall, and plant plantings where the trees are sparse along this property. In talking to the applicants this morning, it was their desire to see this buffer reduced to 20-feet in order to keep the existing operational roads intact. It provides the same type of protections that we intended to give at the DAB by providing the landscaping buffer, the setback, the increased setback from what is there today, as well as this wall. As you can understand that from an operational standpoint this gains them back some valuable storage area. Obviously, we are here before you today in an attempt to gain some additional storage. Storage is of a premium, and they would be looking to still provide buffering along the existing plant site off of the subject property through the use of that voluntary covenant, but in a reduced capacity, 20 feet instead of 50 feet, and hearing Scott's comments about some of the issues with trash and debris, tires, the applicant has said they have had to haul off tires from these hedgerows quite often. If it is the will of the Commission, that if there would be any benefit to this entire wall being 20 feet off of the property line in order to reduce that potential negative impact, they would be willing to drop that line from 50 feet to 20 feet here also, while still providing the same landscape buffer requirements and the same wall requirements. One of the other issues that were brought out at the DAB was this restrictive covenant. That is our mechanism to handle the existing plant site. There are numerous concerns about blowing dust that occurs on the existing site, so we were also in agreement with adding a condition that took into account the existing plat site.

MITCHELL Condition #3 says the height of stored concrete products shall be limited to 10 feet within 100 feet of the wall. Would that also apply if the wall is moved from 50 to 20, or would it be changing?

EWY I would imagine the way that is written it would stay the same and move with the wall requirement.

MITCHELL How would that be enforced?

EWY By City Code Enforcement.

CLIFF RATNER, 330 W. 36th Street N., Wichita, KS 67204 – My property abuts this land. I oppose this application. If you are going to approve this, I ask that they build the fence on the outside of the existing natural timberline buffer that is already there, and not tear it down. I think the fence should be 50 feet back, at least, and not be able to encroach anymore here. They create a lot of noise and dust, and they have been terrible neighbors down here. Make them put that fence to the east side of that natural buffer that is already there, and leave the trees and the wildlife that is there now.

HERNANDEZ You keep referring to the timberline. Would you say that timber area takes up about 25% of the north part of their property?

RATNER It's hard to say, but yes, I guess that's about right.

LEROY LEHMAN, 515 Manlo Drive, Wichita, KS 67204 They have removed a lot of debris from here. Now on the east side, the one that we are talking about, they have it stacked up, not on the property they are trying to get zoned, but the one that they are already using. Look at those pipes and how high they are. Most of these pipes are damaged and will have to be grounded up also. Would you like to live across the street from this? These pipes are right against the fence, and the view is horrible. Several people are trying to sell their properties now, and they have spent most of their lives here. Who is scared of a concrete pipe company? They don't tell us what the after effects are, that we now have the pipes that are broken up that have to be grounded up. The poor folks like what we are, they can move in and take over \$100,000 worth of property that they have damaged. We can't get our money back. They should have never been zoning to do this to begin with. Don't allow them to do this rezone.

CAROL LEE RAIL, 432 W. 35th North, Wichita, KS 67204 Chisholm Creek, just on the other side of my property, is a flood control ditch. At one point, Wichita Concrete Pipe felt inclined to dump some of their excess concrete right down the side of the flood control ditch. Not to mention the trucks and forklifts running back and forth that will continue to break down the east side of the canal. This was all illegal to begin with. With Spring around the corner, and daylight savings time going into effect soon, I am sure the consistent beep, beep, beep, and thud, thud, thud the cement crusher made will continue to increase. I wake up to an alarm clock every morning before I go to work, and would like to lie in peace and quite on Saturday morning, but no, I wake to beep, beep, beep, and thud, thud, thud, and this will continue to increase. We don't need any more noise pollution with the railroad on Broadway. The concrete wall is good, but I don't want to live in prison. If they plant trees it will take years for them to grow, and not do me not much good. This is going to be detrimental to my property value.

PHILLIP FITZMAURICE, 433 W. 35th Street North, Wichita, KS 67204 I am a quiet neighbor, and we moved in about 8–9 years ago. There was a beautiful field across that creek, which other people call a drainage ditch, and there was a lot of wildlife in the area. This is the wrong kind of company to be in the area. Put some other quieter business in the area. These trucks and tractors start as early as 6 a.m. and as late in the summertime as 11-12 p.m. They have depreciated the value of our homes. They have created a ghetto out of our neighborhood. There has been a lot more crime in our area, and I think the trash and dirt increases that behavior. They need to move out of our neighborhood. I think they need to apologize to the neighborhood.

T. J. MYSHKA, 3557 N. Fairview, Wichita, KS 67204 I would like to add two things. Should the Commission decide to go ahead, the biggest concern I have that it is a very dusty product, and when it gets watery it is slimy and dirty. There is no plan in this particular presentation for the waste. How are they going to control the dust? I have sinus problems, and there should be some way to control the dust.

NORMAN HALL, 327 W 36th Street N., Wichita, KS 67204 I live across from this property. I concur with everything that has been said so far. I would like to see the forest and the trees stay. Before they moved the concrete business in that lot, there used to be foxes, and when the business moved in, the foxes left. If you approve this, there will be no animal life like we have had before. The concrete products stored there, I understood that it would be finished concrete products. The noise pollution is absolutely bad. I do not approve of this zone change.

LINDA MALCOM, 3551 Wellington Place The bedroom of my house is 68 feet across from the concrete plant, so you can imagine what we get out of this operation. Knowing that they want to expand, why don't they try to clean up what they already have to get us off their backs? Kids are getting in the holes of the fences. Animals are running rampant there. The mosquitoes are bad. The concrete dust is on our vehicles. It is in our homes. The noise is bad. I don't know if we can put some kind of air pollution device in there to see just what we are breathing. If they can't take care of what they already have, it doesn't seem right to let them expand to make other neighbors go through what we are going through.

HARVEY MALCOM, 3551 Wellington Place They drive their trucks, and empty their cement trucks right in there, and all that, and then they come back and load up some of their trucks, and all this dust blows over here on our houses. When that wind was blowing so hard it is like a dust storm and really, really, bad.

FLOYD L. SIMMONS, 3544 Wellington Place I live just across the street. It is true we are in a poor neighborhood, but we have good friends. I've lived there for 35 years. They came in and never said a word to us about it, and now they are junking and trashing our property. When the wind is to north, you can't keep the dust out of house. The television set is covered with dust. I don't know what a buffer zone would do or a wall would do to keep the dust out of our house.

RUSS EWY, BAUGHMAN COMPANY In hearing some of the comments and concerns today, I would like to address a few that I have written down here. The first speaker spoke to this timber area. The entire site is basically encircled with hedge. There is hedgerow along the creek and along 35th Street North to the south of the subject property, but there are gaps. That is why we created the language for the landscape buffer that we did with staff, because we knew that the majority of the property is very well screened by very mature trees, but there are substantial gaps that exist. We have offered the increased plantings, and for the area where there are trees, we came up with this buffer area to maintain and retain those trees. The broken pipe that was mentioned again, the height of the current stockyard will hopefully be dispersed over this larger area, and we have increased the setbacks from what they are today, which is zero setback along here, and we are looking for a 20-foot setback along the south property line. Drainage and dust control have their place in this Protective Overlay. Condition #1 talks about the runoff as part of the drainage plan when we plat this site, and dust control is addressed in Condition #8.

HERNANDEZ The proposed use is outdoor storage of concrete products and materials. Are they going to take these old pipes or maybe new pipes and just set them there until you use them or destroy them?

EWY That's correct. The original language from last year; we talked about concrete and concrete materials, accessory buildings, and some general area of uses. At the DAB meeting, there was a lot of concern about having a shed being built on the property that would hold heavy equipment etc., and at that time, we wanted to make clear it is just concrete material or concrete pipe and not piles of sand, and nothing that is going into the manufacturing of concrete, just simple concrete product.

HERNANDEZ The rock crushing?

EWY That is not part of this, and unfortunately that was part of the site some 18-24 months ago. As was told at the DAB, some of the unusable product that they have is offered for sale to be taken off site, and used for erosion control for private individuals etc., and it would be stored temporarily on the site.

HERNANDEZ The concrete pipe company was doing some illegal things. Were they ever fined to your knowledge?

EWY I am not sure. My impression is that OCI cites an illegal use or illegal operation, and the terms of those citations typically prescribe a period of time in which the applicant or owner has time to rectify the situation before an actual fine is levied, and my impression is that is what took place here.

HERNANDEZ I can understand the residents' apprehension because it appears over a 5-year period they were allowed with the illegal use. Do you think they might continue the illegal usage if they were permitted the zone change?

EWY Obviously not.

HERNANDEZ You know your client better than I do.

MITCHELL The area that shows up in white is broken up, crushed, demolished concrete product, and I understand they were told to clean up the rock crusher site, and I don't see that as being cleaned up.

EWY This is the Year 2000 aerial.

KNEBEL No, it is 2003.

EWY We were asked to clean up the concrete pipe product. There was the depository of concrete rubble, and they used a portion of that to fill the site, and my understanding is that they trucked off the rest of it.

MITCHELL If they are not able to obtain this site for storage, what is the future of the existing plant?

EWY It is my understanding from Brad Werth, who is not here today, that the subject property would probably stay as status quo for the foreseeable future. Wichita Concrete Pipe is in the process of expanding their operation in the northeast portion of their existing site, and looking to add capacity to their site, which of course necessitates the need for additional storage site.

MITCHELL You are not sure that they can continue with that expansion if they don't have the additional site?

EWY That is my understanding.

WADE WENTLING, Wichita Concrete Pipe, 221 W. 37th Street North, Wichita, KS 67204 To address your concern, primarily we are trying to get this property rezoned because we are currently expanding our current operation located directly to the east of the main manufacturing facility located up in the northeast quadrant of our property in hopes of getting ourselves in position for the railroad corridor project. We want to build wall panels for that job. The job has not let yet, and has been deferred, and we are putting a lot at risk by doing that. If we are successful, we are going to be very limited on yard space to store concrete wall panels before they go out to the job site, and that is the primary issue. I am hoping to address the concerns of the neighborhood.

JOHNSON The first speaker indicated that there is about 100 feet of timberline there. In your proposal is all that going to stay or half of it?

EWY There's 100-120 feet there. The wall that we are proposing with this 50-foot buffer would come and split down the middle the majority of the trees, and half the trees to the west will remain in place.

BISHOP You are asking for an amendment to the requirement to the 50-foot setback along the south line to 20 feet. Is that for the entire south line?

EWY That is up for discussion. We had focused our efforts within the boundaries of the application area. At the DAB, the neighbors expressed concerns with the existing property. There are also concerns from the existing operation that were voiced by the DAB members. One DAB member asked if we would be willing to voluntarily impose restrictions on the existing site, and we said, "yes." From an operational standpoint, their preference would be to gain back that one-half acre and provide a setback, and provide a wall, but at 20 feet from the 35th Street right-of-way. Over here we talked about the 50-foot setback.

HENTZEN Do you know long concrete business has been there on the east lot?

WENTLING It has been over 10 years now.

DUNLAP The front page of the staff report you show the roadway at the east edge of their property, and that has been vacated, and there is a building built on it. I know, because I own the single-family dwelling zoned area immediately at the south end where that road would connect. There is some inconsistent zoning in this area.

BISHOP The front page of the staff report shows that this is a request that is going from "SF" to "LI," and yes there's a pretty extensive overlay but that is still an awfully big jump in zone classifications. I don't know how the existing industrial zoning was approved in that area, but it is a huge problem. The buffering and screening that has been offered would help, but I think it is also problematic. The loss of area along the creek is serious both from an environmental view and the values of property on other side of the creek. The south property along 35th Street, I think, is really problematic for that neighborhood. Making some allowances would be good, but I don't think 20 feet is going to do it. The hedgerows that are there are pretty sorry. I would be very reluctant to support this even with the recommendation from the DAB.

MOTION: to approve citing the findings the in staff report and subject to the following conditions:

MCKAY moved, **MITCHELL** seconded the motion.

1. The subject property shall be platted within one year but prior to use of the subject property for storage of finished concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.
2. Use of the subject property shall be limited to the outdoor storage of finished concrete products.
3. The height of stored finished concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.
4. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property and shall be set back at least 50 feet from the property line so that the required landscape buffer can be planted between the wall and the property line.
5. There shall be a 50-foot landscape buffer maintained along the south and west property lines of the subject property in conjunction with the solid screening wall. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance.
6. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.
7. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.
8. Blowing dust from the site shall be minimized by routinely spraying water on unpaved surfaces.
9. Within 60 days of approval of the zone change request, a voluntarily-offered restrictive covenant shall be submitted that places the requirements of provisions 3-8 of the Protective Overlay on the applicant's existing property to the east. The

restrictive covenant shall require completion of improvements to the existing property to the east no later than 30 days after the initiation of storage of finished concrete products on the property subject to rezoning.

BISHOP The Drainage Plan will be approved by whom?

KNEBEL It will be approved by the City Engineer.

HENTZEN Would that 50 feet cut right down through the tree area there?

MCKAY It is natural now, and you only need five feet to put a fence in, and the west side will remain the way that it is.

GAROFALO If they go through there and build a wall they, will have to take out the trees?

MCKAY At least you are saving part of it. At 20 feet you won't save any of it.

MOTION CARRIED: 7-2 GAROFALO and BISHOP opposed.

6. **Case No.: CON2004-07** – Brentwood Development LLC c/o Stephen G Miller Request Conditional Use to permit a neighborhood swimming pool on property zoned "SF-5" Single-family Residential on property described as;

Lot 24, Block 8, Clear Creek Addition, Wichita, Sedgwick County, Kansas. Generally located At the northwest corner of Laguna and Twinlake

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool on Lot 24, Block B, Clear Creek Addition, a 0.36-acre site. The subject property is generally located midway between US 54 and Harry Street, on the west side of 143rd Street East, more specifically one block west of 143rd Street East, on the northwest corner of the Laguna Street and Twin Lake Drive intersection. The subject property is zoned "SF-5" Single-Family Residential and is currently undeveloped. A neighborhood swimming pool can be permitted on the subject property as a Conditional Use.

The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential and are currently being developed with single-family residences and associated open space reserves.

The attached site plan shows a 20-foot by 40-foot swimming pool, 9 parking spaces (including one ADA designated space) located south of the swimming pool, and an 18-foot by 12-foot pool house located west of the pool. The pool house contains an equipment room and a restroom. As proposed, the parking area meets the Unified Zoning Code requirements.

Section IV-B.3. of the UZC requires that screening in the form of decorative fencing, evergreen vegetation, or landscaped earth berms be provided along the west and north property lines. The Landscape Ordinance requires a landscaped street yard along Laguna Street and Twin Lake Drive and parking lot screening landscaping. Planning staff recommends that the required landscaping be installed per a landscape plan to be approved by planning staff.

CASE HISTORY: The subject property is platted as Lot 24, Block B, Clear Creek Addition, which was recorded May 29, 2003

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Undeveloped, platted residential
EAST: "SF-5" Single-family residences
SOUTH: "SF-5" Single-family residences
WEST: "SF-5" Undeveloped, platted residential

PUBLIC SERVICES: The subject property has access to Laguna Street, a two-lane residential street. Water, sewer, and other municipal services will be provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development. This residential category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance per a landscape plan approved by the Planning Director prior to the issuance of a building permit.
3. Screening in accordance with Section IV-B.3. of the Unified Zoning Code shall be provided along the north property lines where abutting Lot 23, Block 8, Clear Creek Addition and along the west property line where abutting Lot 1, Block 8, Clear Creek Addition.

4. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a single-family residential neighborhood just beginning to be developed. All of the surrounding properties are zoned "SF-5" Single-Family residential. Property north and west of the site are undeveloped, while property east and south of the site have single-family residences nearing completion. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of a low-density residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool most likely will be an amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Low Density Residential" development. This residential category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

7. Case No.: CON2004-08 – Eden's Promise Inc. c/o Gayle Page, President (owner) Request Conditional Use to permit a group residence for a transitional home for girls on "TF-3" Two-family Residential on property described as;

Lots 86, 88, 90, 92, & 94 on Fairmount and the west 15 feet of Lots 85, 87, & 89 on Vassar, Fairmount Addition. Generally located At the northeast corner of 15th Street North and Fairmount

BACKGROUND: The applicant is requesting a Conditional Use to allow a group residence, limited, on a 0.46-acre platted lot located on the northeast corner of 15th Street North and Fairmount. The subject property is zoned "TF-3" Two Family Residential. The house is currently vacant and has been donated to Eden's Promise by the previous owner, Joe Walsh. Also, it had been a fraternity house in the past. The earliest residents were Nathan J. Morrison and his family. Mr. Morrison was the first president of Fairmount College.

A group residence for between six and 15 residents, including staff, may be permitted in the "TF-3" Two Family zoning district with approval of the requested Conditional Use. The applicant proposes to use the existing residential structure as a transitional home for up to 10 young women ages 13 to 18 and a house mom. The carriage house on the rear of the property is shown as offices in Phase 2. A statement from the applicant more fully describing the use of the facility is attached.

The properties near the application area are mostly single-family and duplex units, but the surrounding area includes a mix of single-family, duplex, multi-family, group residences and institutional uses, including three churches within a block of the proposed use. Many of the houses appear to be rental units. Wichita State University is located two blocks to the north.

The applicant is not proposing any external changes to the subject property except converting the carriage house to office use and adding a 6-foot wrought iron fence on the south and west property line. A future parking area to replace the carriage house is shown on the plans. Section IV-A.4 of the Unified Zoning Code (UZC) requires one parking space for each staff member and one parking space for each resident that is permitted to drive, and this is met by the site plan. The proposed residential use does not trigger any of the UZC screening or compatibility requirements.

CASE HISTORY: The subject property is platted as part of Fairmount Addition, recorded February 15, 1887.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|--------|---------------------------|
| NORTH: | "TF-3" | Mixed residential, church |
| SOUTH: | "TF-3" | Mixed residential, church |
| EAST: | "TF-3" | Single family, duplex |
| WEST: | "TF-3" | Single family, duplex |

PUBLIC SERVICES: The subject property is located along a paved residential street. The property is served with sanitary sewer and municipal water.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a "Re-establishment Area." A "Re-establishment Area" contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a "Re-establishment Area" need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed group residence represents an improvement of deteriorating social organizations and private reinvestment, and approval of the Conditional Use request would be a special enhancement to help ensure future viability of the neighborhood.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

1. The group residence shall be limited to a home for young women and shall be limited to a maximum 10 residents plus one resident staff member, and other ancillary office staff.
2. Residents shall not be permitted to drive a vehicle to or park a vehicle at the group residence except for the resident staff member.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. The site shall be developed in general conformance to the approved site plan.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by mixed-density residential development. All of the adjacent properties are zoned "TF-3" Two Family and are either developed with single-family residences, duplexes, some multi-family uses, group residences and churches.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to be used for a single-family residence. However, the proposed use as a group residence is not significantly more intense than use of the property for other uses permitted in the "TF-3" district, and therefore is a suitable use of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed group residence represents a reinvestment in a neighborhood specifically identified as needing such improvements. Other group residences are found within a two-block radius, and other properties on the same block face are in use as duplexes or a triplex and may have as many or more occupants as the proposed group residence. The appearance of the dwelling will remain residential in character.
4. Length of time subject property has remained vacant as zoned: The property has been vacant since its use as a fraternity, approximately 10 years ago. During this time, the previous owner did extensive rehabilitation to the exterior but never occupied the dwelling.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a "Re-establishment Area." A "Re-establishment Area" contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a "Re-establishment Area" need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed group residence represents a reinvestment in the neighborhood. The residents will be receiving counseling and other life skills training, which could be seen as creating a social organization to prevent deterioration of the neighborhood and community.
6. Impact of the proposed development on community facilities: No impact on community facilities is anticipated.

DUNLAP This chain link fence, has that been there for a while?

GOLTRY This chain link fence will be replaced with a wrought iron fence.

GAYLE PAGE, 7325 E. Oxford Ct., Wichita, KS 67226 We are in agreement with staff conditions and recommendation.

BISHOP The current zoning is two-family. If it were to be resold or revert to the previous owner, would the Conditional Use go forward so it could possibly be used as a Group, Residence?

GOLTRY It could be a group residence, but it would still have to comply with the conditions of approval regardless of who owns it.

HENTZEN We are approving the Conditional Use? We are not rezoning and the CU stays with the property?

GOLTRY Yes.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **BISHOP** seconded the motion, and it carried (9-0).

8. **Case No.: CON2004-10** – Ken & Susan Lockwood Request Sedgwick County Conditional Use to permit community assembly for a rehabilitation center for birds on property zoned “RR” Rural Residential on property described as;

Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County Kansas, described as follows: Beginning at the Northeast Corner of the North Half of the Southeast Quarter, common to the Southeast corner of the Northeast Quarter; thence South 00 degrees 01'23" East on an assumed bearing along the east line of said North half of said Southeast Quarter 608.37 feet; thence South 90 degrees 00' West 1278.90 feet; thence North 0 degrees 36'05" East, 714.42 feet; thence North 90 degrees 00 East 1271.16 feet on the east line of said Northeast Quarter; thence South 0 degrees 00' West along the East line of said Northeast Quarter, 106.02 feet to the point of beginning, except the east 40 feet for road. Generally located 1/2 mile south of 13th Street North on the west side of 343rd Street West

BACKGROUND: The applicants are requesting a Conditional Use to permit a nonprofit birds of prey rehabilitation and educational facility on 3.25-acres of their 20-acre tract. The subject site is located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West. The subject site is in an unincorporated far western portion of Sedgwick County and is zoned “RR” Rural Residential. As defined in the UZC “an establishment that provides meeting recreation, educational, cultural or social facilities for a membership or non-profit association...” is a community assembly. The proposed use (raptor center) is a nonprofit educational use and as such is considered a “community assembly”. The “RR” zoning district permits “community assembly” with the approval of a Conditional Use.

The proposed raptor center rehabilitates injured or orphaned birds of prey for release back into the wild. If a veterinarian finds a bird not fit for release, the raptor center may keep the bird for educational programs, as permitted and regulated by the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks. The raptor center also has the option of placing a bird in another center for rehabilitation or as a permitted “house” bird. The applicants’ raptor center is currently recognized by both of these government agencies under the status of a nonprofit rehabilitation and educational facility for injured and orphaned birds of prey. The applicants’ have stated that the raptor center does not receive any federal or state funds.

Currently the applicants have permits for seven owls, two hawks, one golden eagle and one bald eagle. The applicants are required to do 12 educational programs a year with these permitted “house” birds. These programs can be either off site or on site. The applicants have stated that the peak times for on site educational programs would be in the spring and autumn, with schools being the chief client. The summer combination of the birds’ molting and the heat makes the seas on generally to stressful for the birds. Winter’s prolong cold period is the time for off site educational programs, where indoor facilities are available; school gyms or a facility like Century II, during the Lawn and Garden Show. The applicant has stated (see exhibit 1, second page, second paragraph) that in the last four years they have averaged 40 programs a year, which if they were all on site, equals less than one program a week on site.

The applicants have provided staff with letters supporting the applicants’ programs from the Wichita, Andale, Rose Hill, Goddard and Garden Plain public school districts. Members of the Wichita State University and Friends University Biology Departments, the Kansas State University School of Veterinary Medicine and the faculty at Cowley County Community College have also written letters supporting the applicants’ programs and care of the birds.

The applicants have provided a site plan, which shows existing and proposed development. Existing development include the applicant’s house (built 2003), 10 holding pens for non-releasable birds, two eagle holding pens and a flight/exercise pen. The applicants propose constructing a parking area, men’s and women’s bathrooms and a pavilion. The site plan shows existing and proposed landscaping. The applicants have applied for a forest stewardship management plan with the Kansas Forest Service, which will assist them in more landscape plantings to conserve their 20-acre tract. These plantings and the existing clusters of trees on the applicants’ tract will provide screening of the raptor center.

The site, with the exception of the existing residence and structures, is a field with a creek running along the length of the west side of the site. There are some groupings of trees along the creek and scattered infrequently on the subject site. The site has direct access onto 343rd Street West.

The character of the surrounding area is primarily agricultural and scattered large tract single-family residence. There are at least 14 single-family residences located northeast, northwest, west, south and southwest of the proposed site. The closest residences are approximately 2,000-feet north (built 1910) of the subject site and another residence (manufactured house) approximately 1,000-feet south of the subject site. All of the property surrounding the subject property is zoned “RR” Rural Residential.

CASE HISTORY: The site is an unplatted tract.

ADJACENT ZONING AND LAND USE:

| | | | |
|--------|------|-------------------|--|
| NORTH: | “RR” | Rural Residential | Agricultural, 7 large tract single family residences |
| SOUTH: | “RR” | Rural Residential | Agriculture, 4 large tract single family residences |
| EAST: | “RR” | Rural Residential | Agricultural, 1 large tract single family residences |
| WEST: | “RR” | Rural Residential | Agricultural, 2 large tract single family residences |

PUBLIC SERVICES: The subject property has direct access onto 343rd Street West, a two-lane paved Sedgwick County highway. No traffic volume information is available for this road. The subject property is outside any Rural Water service area and public sewer service is not available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being outside the 2030 growth area. The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Wichita-Sedgwick County Unified Zoning Code (UZY) lists "community assembly" as a Conditional Use in the "RR" zoning district.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- (1) The property shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZY.
- (2) All outdoor facilities will be located a required 200 feet from any neighboring residences and 50-foot from adjoining properties.
- (3) Cleaning of the facility shall be performed as often as necessary to maintain sanitary conditions, in such a manner as to minimize odors and disease hazard. A "suitable method" of eliminating excess water and feces from the facilities shall be provided as determined by Sedgwick County Code Enforcement. The facility shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
- (4) The applicant shall obtain all applicable permits including, but not limited to building, health and zoning. The applicant shall keep his registration with the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks current and on site at all times.
- (5) No refreshment stands or food and beverage sales. Alcoholic beverages are prohibited
- (6) No gift shops.
- (7) No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property line.
- (8) All lights shall be shielded to direct light away from the adjoining properties. No string type lighting permitted.
- (9) All driveways, parking, loading and vehicle circulation areas shall be surfaced with asphalt, asphalt millings, crushed gravel, or an all weather surface as recommended and approved by the Sedgwick County Fire Department.
- (10) On site operations shall be limited to daylight hours between 10:00 am and 3:00 pm, Monday through Saturday, during the peak months. Two on site educational programs per day in April, May, September, October and November are permitted; these are the peak months. One on site educational program per day in January, February, March, June, July, August and December is permitted; these are not peak months and the programs can given during the daylight hours, Monday through Saturday. The maximum number of people allowed on site for educational programs is 35.
- (11) The applicant shall receive any required approval from the appropriate county and state agencies for any on site drinking water.
- (12) The raptor center shall comply with all the necessary fire prevention procedures and equipment as required by the Sedgwick County Fire Department.
- (13) One sign allowed; a maximum of 18- square feet in size.
- (14) A minimum of two chemical portable toilets shall be provided, one for females and one for males. The applicant must provide proof of an ongoing maintenance contract for the removal of the waste from the site to the Sedgwick County Health Department. The disposal of solid waste shall be in accordance with Sedgwick County's Sanitation Codes.
- (15) The facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
- (16) The number of full time employees will not exceed two, including the applicants.
- (17) If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of all properties surrounding the subject property is "RR" Rural Residential. Uses and the character of the surrounding area are primarily agricultural with established large tract single-family residences 1,000 to 2,000-feet away from the proposed non-profit birds of prey rehabilitation and educational facility. There have been three single-family residences built, since 2001, in the area, including the applicants' residence.
2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning district restricts uses permitted by right on the subject property to residential, agricultural, and related uses, and the subject property could continue to be used for agriculture or for residential use. The proposed development of the non-profit birds of prey rehabilitation and educational facility, "community assembly", on the subject property may be permitted by a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the Conditional Use in combination with the types of clients that use the nonprofit birds of prey rehabilitation and educational facility will minimize the on site impact of the center's activities on the adjacent properties. Typical clients include the public school districts in the area, universities and colleges in the state, scouts, churches, or other similar groups. Traffic generated by

the educational programs being done on site along 343rd Street West will be minimal. Most clients will be arriving on site in groups using buses, vans, light trucks or cars. The seasonal considerations for the birds, i.e. how they change with the seasons, also limits the timing and number of on site programs. Also, the majority of on site activity will be during the weekdays, at times when most neighbors will be at work or in school.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The proposed use (raptor center) is a nonprofit educational use and as such is considered a "community assembly". The "RR" zoning district permits "community assembly" with the approval of a Conditional Use. The non-profit birds of prey rehabilitation and educational facility could be a compatible land with the conditions required for this request.
5. Impact of the proposed development on community facilities: Minimal negative impacts on community facilities are anticipated.

KEN LOCKWOOD, 927 N. 343rd West, Cheney, KS 67025 I would like to change Condition #10. It states operation hours to be between the hours 10:00 am and 3:00 pm, Monday through Saturday. I like to do programs in the summer time when we have longer daylight hours. Scout groups and other groups will come out between 6:30-8:00 p.m. at night, when it is cooler. We also do an Owl Prowl and the kids come out at nighttime to see this program. This program would be something done within one hour and kept to a minimum of 15-20 children and adults. We would like to the time to be extended to 8:00 p.m. in the evening once or twice a month.

HENTZEN Are you saying from 10 am?

LOCKWOOD Condition #10 says from 10:00 a.m. to 3:00 p.m., but I would like to have that reconsidered to 10:00 a.m. to 9:00 p.m. Generally the Scout groups come mostly in the summertime, during June, July, and August. Also, during the heat in the summertime the birds molt their feathers. The heat is a factor you have to consider for both the good of the birds and people. We do the Owl Prowl during September and October because that is mating season.

MITCHELL Would that be every month? Where did the hours come from?

LONGNECKER The hours in the staff report were a result of discussing the Conditional Use with the applicant. The hours that you are hearing now were brought to my attention just prior to the meeting today.

LOCKWOOD The 10:00 a.m. – 3:00 p.m. hours are during school when the school groups come out with school buses.

MILLER Staff does not oppose the hour change.

MOTION: Approve condition #10 change hours from 10:00 a.m. to 9:00 p.m.

HENTZEN moved, **MITCHELL** seconded the motion, and it carried (9-0).

9. Case No.: CUP2004-03 DP239 Amendment #3 – Gateway Center LLC, Venture Seven Development LLC, Tipperary Group LLC, Kiser Gateway LLC (owners); P.E.C. c/o Rob Hartman (agent) Request Amendment to The Gateway Center Addition Community Unit Plan on property described as;

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Block 1, The Gateway Center Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located On the southeast corner of 13th Street North and Greenwich Road

BACKGROUND: The applicant is requesting to amend DP-239 The Gateway Center C.U.P. to adjust parcel sizes, signage, architectural controls and access controls. No change in permitted uses is requested. The C.U.P. is zoned "LC" Limited Commercial.

The largest parcel, Parcel 12-A (20.5 acres), is developed with a large multi-screen theatre. Parcel 12-B would be split into two parcels. Parcel 12-B (10.33 acres) is being developed with a bowling alley. Parcel 12-C (10.18 acres) is vacant. The new C.U.P. would have the same total number of parcels along 13th Street North and Greenwich, but would be rearranged in size and location. Parcel 2 would be combined with Parcel 1 to create a 2.51-acre parcel in the southwest corner of the C.U.P. It is the possible site for a hotel use. Parcels 3-10 have minor shifts in size and boundary lines (Parcel 3 - 1.26 acre, Parcel 4 - 0.96 acre, Parcel 5 – 1.26 acre, Parcel 6 – 1.51 acre, Parcel 7 – 1.11 acre, Parcel 8 – 1.38 acre, Parcel 9 – 1.49 acre, Parcel 10 – 1.21 acre, Parcel 11-A – 1.18 acre and Parcel 11-B – 1.18 acre. The amended C.U.P. shows an internal road along the interior of the small parcels, linked to the arterial streets. The internal roads are designated as Reserve A and Reserve B.

Currently, one freestanding pole or monument type center identification sign no taller than 35 feet is permitted on 13th Street North and one is permitted on Greenwich Road. The requested changes are to increase the total size of both shopping center identification signs to 300 square feet with three tenant panels and to specify the location of these signs at the major entrance on 13th Street North between Parcels 8 and 9, and at the major entrance on Greenwich between Parcel 1 and 3. Accent lighting is requested for the sign base. Other signs on 13th Street North and Greenwich would be consistent monument-style signs with a maximum sign face area 48 square feet apiece, spaced a minimum of 150 feet apart.

Regarding signage on K-96, the amendment would increase the maximum size of freestanding signs from 300 square feet to 400 square feet, but would reduce the total number permitted from three signs to two signs. The height of these signs would be permitted to be 45 feet, including spires and ornamental towers. Presently, they are limited to 35 feet, but with spires and ornamental towers connected to signs not to exceed the 45 feet height limit. Accent lighting is requested for the sign base.

Architectural consistency of building materials in terms of character, color, and texture and consistent lighting design would continue to be required for Parcels 12-A, 12-B, and 12-C. The requirement for Parcels 1 through 11-B would be limited to consistency in lighting fixtures, monument signs and landscaping.

An additional access point is requested for Greenwich along the southern edge of the property, for a total of four access points on Greenwich. The northern two points would be right-in/right-out only. Also, an additional right-in/right-out access point is requested on 13th Street North between Parcels 7 and 8.

Most of the area to the northwest is vacant but approved for commercial use, including DP-224 Dillons 13th and Greenwich C.U.P at the corner. Chapel Hill United Methodist Church is located north 13th near K-96, and the church property includes several "LC" parcels with 13th Street North frontage. The property west of Greenwich is vacant but approved for commercial use as DP-254 Kiser C.U.P. Raytheon owns the property west of DP-254. Pine Ridge, a duplex subdivision zoned "TF-3" Two-family Residential, and Pine Meadow, a single-family subdivision zoned "SF-5" Single-family Residential, are under development along the southern property. K-96 is the eastern boundary of the site.

CASE HISTORY: DP-239 The Gateway Center C.U.P. was approved in March 17, 1999. It is platted as The Gateway Center Addition, recorded March 6, 1999. Amendment #1 was approved by MAPC on September 21, 2000 and allowed theatre/entertainment types of uses. Amendment #2 was approved by MAPC on January 24, 2002 and increased wall signage for Parcel 12-A.

ADJACENT ZONING AND LAND USE:

| | |
|-----------------------|-------------------------------------|
| NORTH: "LC", "SF-5" | Vacant, church |
| SOUTH: "SF-6", "TF-3" | Duplexes, single-family residential |
| EAST: "LC", "SF-5" | K-96, church, single-family |
| WEST: "LC", "SF-20" | Vacant |

PUBLIC SERVICES: The site has access to 13th Street North, a six-lane arterial, and Greenwich, a two-lane arterial. Traffic volumes on 13th Street North were approximately 8,250 vehicles per day in 2003 and are projected to increase to 36,000 ADTs by 2030 in a recent transportation study of the Greenwich corridor.

The requested additional access point on 13th Street North meets the separation guidelines of 200 feet between right-in/right-out drives. The repositioned major entrance and the new full movement drive on the south line almost meet the separation distance of 400 feet for two full access points, but conflicts with the location of the major access approved for the west side of Greenwich in DP-254. Staff has been advised that the owner of DP-254 also intends to relocate its major opening to align with the proposed changes on DP-239. Greenwich lacks an accel/decel lane on Greenwich and left-turn lanes. A guarantee for southbound left-turn center lanes was executed with the original C.U.P.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the amendment be **APPROVED** subject to replatting and to the following conditions:

1. Changes in access control (additional right-in/right-out access on 13th Street North, the additional full movement on Greenwich, the repositioned major entrance on Greenwich, and the repositioned right-in/right-out access on Greenwich) shall be subject to being granted as part of the replat. Additionally, access control changes shall be subject to replatting or vacating of access control on DP-254 Kiser C.U.P. to align with the new access controls on DP-239 The Gateway Center C.U.P.
2. A guarantee shall be provided for a continuous accel/decel lane along Greenwich Road. A contingent guarantee shall be provided for signalization of the major entrance on Greenwich, subject to meeting traffic warrants.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the area to the northwest is vacant but approved for commercial use, including DP-224 Dillons 13th and Greenwich C.U.P at the corner. Chapel Hill United Methodist Church is located north 13th near K-96, and the church property includes several "LC" parcels with 13th Street North frontage. The

property west of Greenwich is vacant but approved for commercial use as DP-254 Kiser C.U.P. Raytheon owns the property west of DP-254. Pine Ridge, a duplex subdivision zoned "TF-3" Two-family Residential, and Pine Meadow Estates, a single-family subdivision zoned "SF-5" Single-family Residential, are under development along the southern property. K-96 is the eastern boundary of the site.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in conformance to the existing C.U.P. plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main detrimental effect would be if access controls were changed on the east side of Greenwich without the commensurate change on the west side. This could create traffic conflicts and safety hazards, and is the reason for the proposed conditions of approval. Larger center identification signs would be permitted and building materials consistency would not be required for the small parcels along the street, which allows a more commercialized appearance to develop. This should be mitigated by the architectural consistency requirement for the three main buildings, which dominate the development. It should also be mitigated by the consistency of lighting, signage and landscaping.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed amendments are in conformance with the *Comprehensive Plan* for "commercial" use.
5. Impact of the proposed development on community facilities: The impacts of additional traffic flow into and out of the center would be mitigated by the requested traffic improvements.

GOLTRY Color sketches of the proposed freestanding signs have been distributed.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

10. Other matters/adjournment.

JOHN SCHLEGEL Director of Planning, I got a call from the Sedgwick County Farm Bureau; they would like to have their Board of Directors meet with two or three of the Planning Commissioners to talk about future development plans and urban sprawl.

HENTZEN, BISHOP, and DUNLAP volunteer.

SCHLEGEL For the McAdams Neighborhood Plan there was a recommendation for neighborhood wide rezoning, and we are putting together the rezoning committee to oversee that project, and we would like to have one MAPC member to participate on that oversight committee.

MCKAY I will volunteer to help with that.

The Metropolitan Area Planning Department informally adjourned at 3:51 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)